

## HOUSE BILL NO. 329

INTRODUCED BY D. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT INCLUDING THE POPULATION WITHIN THE AREA THAT CONSISTS OF AN EXTENSION OF MUNICIPAL ZONING AND SUBDIVISION REGULATIONS BEYOND MUNICIPAL BOUNDARIES AS A PART OF THE QUALIFYING POPULATION FOR ESTABLISHING A RESORT COMMUNITY FOR IMPOSITION OF THE RESORT TAX; PROVIDING THAT THE AUTHORITY TO IMPOSE THE RESORT TAX IS RESCINDED IF A RESORT COMMUNITY EXCEEDS THE MAXIMUM POPULATION; ALLOWING A DELAY IN THE RESCISSION OF AUTHORITY IF RESORT TAX PROCEEDS ARE PLEDGED FOR BOND PAYMENT; PROVIDING THAT THE DEPARTMENT OF COMMERCE DETERMINES RESORT COMMUNITY POPULATIONS; AMENDING SECTIONS 7-6-1501, 7-6-1502, AND 7-6-1505, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 7-6-1501, MCA, is amended to read:

**"7-6-1501. Resort tax -- definitions.** As used in 7-6-1501 through 7-6-1509, the following definitions apply:

(1) "Luxuries" means any gift item, luxury item, or other item normally sold to the public or to transient visitors or tourists. The term does not include food purchased unprepared or unserved, medicine, medical supplies and services, appliances, hardware supplies and tools, or any necessities of life.

(2) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical maintenance purposes, whether or not prescribed by a physician.

(3) "Medicine" means substances sold for curative or remedial properties, including both physician prescribed and over-the-counter medications.

(4) "Resort area" means an area that:

(a) is an unincorporated area and is a defined contiguous geographic area;

(b) has a population of less than 2,500 according to the most recent federal census or federal estimate;

(c) derives the major portion of its economic well-being from businesses catering to the recreational and personal needs of persons traveling to or through the area for purposes not related to their income production;

1 and

2 (d) has been designated by the department of commerce as a resort area prior to its establishment by  
3 the county commissioners as provided in 7-6-1508.

4 (5) "Resort community" means a community that:

5 (a) is an incorporated municipality;

6 (b) has a population of less than 5,500 according to the most recent federal census or federal estimate,  
7 which is the combined population, as determined by the department of commerce, within municipal boundaries  
8 and within any area that consists of an extension of municipal zoning and subdivision regulations beyond  
9 municipal boundaries as provided in 76-2-310;

10 (c) derives the primary portion of its economic well-being related to current employment from businesses  
11 catering to the recreational and personal needs of persons traveling to or through the municipality for purposes  
12 not related to their income production; and

13 (d) has been designated by the department of commerce as a resort community."  
14

15 **Section 2.** Section 7-6-1502, MCA, is amended to read:

16 **"7-6-1502. Resort community taxing authority -- specific delegation -- rescission. (1)** As required  
17 by 7-1-112, 7-6-1501 through 7-6-1507 specifically delegate to the electors of each respective resort community  
18 the power to authorize their municipality to impose a resort tax within the corporate boundary of the municipality  
19 as provided in 7-6-1501 through 7-6-1507.

20 (2) (a) If the population of a resort community exceeds the population maximum established in  
21 7-6-1501(5)(b), the authority of the resort community to impose a resort tax as provided in subsection (1) is  
22 rescinded on December 31 of the year the resort community is notified by the department of commerce that the  
23 population limit was exceeded.

24 (b) If the resort community has pledged resort tax revenue for the payment of bonds issued under  
25 7-6-1506, the authority to impose the tax is not rescinded until the bonds have been redeemed in full.

26 (c) If rescission is delayed as provided in subsection (2)(b), no further bonds may be issued pledging  
27 revenue from the resort tax other than bonds issued to refund or redeem outstanding bonds. Refunding or  
28 redemption bonds may not be issued for a term longer than the unexpired term of the bonds being refunded or  
29 redeemed."  
30

1           **Section 3.** Section 7-6-1505, MCA, is amended to read:

2           **"7-6-1505. Resort tax administration.** (1) In this section, "governing body" means:

3           (a) the governing body of a resort community;

4           (b) if the resort tax has been approved by the electors of a resort area, the board of county  
5 commissioners; or

6           (c) if the electors of the resort area establish a resort area district, the district board of directors.

7           (2) Not less than 30 days prior to the date that the resort tax becomes effective, the governing body shall  
8 enact an administrative ordinance governing the collection and reporting of the resort taxes. This administrative  
9 ordinance may be amended at any time as may be necessary to effectively administer the resort tax.

10          (3) The administrative ordinance must specify:

11          (a) the times that taxes collected by businesses are to be remitted to the governing body;

12          (b) the office, officer, or employee of the governing body responsible for receiving and accounting for  
13 the resort tax receipts;

14          (c) the office, officer, or employee of the governing body responsible for enforcing the collection of resort  
15 taxes and the methods and procedures to be used in enforcing the collection of resort taxes due; and

16          (d) the penalties for failure to report taxes due, failure to remit taxes due, and violations of the  
17 administrative ordinance. The penalties may include:

18           (i) criminal penalties not to exceed a fine of \$1,000 or 6 months' imprisonment, or both;

19           (ii) civil penalties if the governing body prevails in a suit for the collection of resort taxes, not to exceed  
20 50% of the resort taxes found due plus the costs and attorney fees incurred by the governing body in the action;

21           (iii) revocation of a county or municipal business license held by the offender; and

22           (iv) any other penalties that may be applicable for violation of an ordinance.

23          (4) The administrative ordinance may include:

24          (a) further clarification and specificity in the categories of goods and services that are subject to the  
25 resort tax consistent with 7-6-1503;

26          (b) authorization for business administration and prepayment discounts. The discount authorization may  
27 allow each vendor and commercial establishment to:

28           (i) withhold up to 5% of the resort taxes collected to defray their costs for the administration of the tax  
29 collection; or

30           (ii) receive a refund of up to 5% of the resort tax payment received from them by the governing body 10

1 days prior to the collection due date established by the administrative ordinance.

2 (c) other administrative details necessary for the efficient and effective administration of the tax.

3 (5) By June 1 of each year, the governing body of a resort community shall report to the department of  
4 commerce the adoption of any change in an extension of municipal zoning and subdivision regulations beyond  
5 municipal boundaries of the resort community as provided in 76-2-310. The department of commerce shall, by  
6 October 1 of each year, give notice of the combined population of the resort community and the extension area  
7 to each resort community that has an extension beyond municipal boundaries."

8  
9 NEW SECTION. **Section 4. Effective date.** [This act] is effective January 1, 2010.

10 - END -